



City of Tigard

Tigard Business Meeting - Minutes

TIGARD CITY COUNCIL & LOCAL CONTRACT REVIEW BOARD (LCRB)

MEETING DATE/TIME: May 24, 2011 – 6:30 p.m. Study Session; 7:30 p.m. Business Meeting

MEETING LOCATION: City of Tigard – Town Hall, 13125 SW Hall Blvd., Tigard, OR 97223

STUDY SESSION: The Study Session was called to order at 6:30 p.m.

Council Present: Mayor Dirksen, Councilor Henderson, Councilor Wilson, Councilor Woodard and Council President Buchner

Staff Present: City Manager Prosser, Assistant City Manager Newton, Public Works Director Koellermeier, Community Development Director Bunch, Assistant Community Development Director Hartnett, Senior Transportation Planner Gray, Finance and Information Services Director LaFrance, Deputy City Recorder Krager and City Attorney Ramis

EXECUTIVE SESSION

- At 6:31 p.m. City Manager Prosser announced that the Tigard City Council was going into Executive Session for consultation with counsel concerning legal rights and duties regarding current litigation or litigation likely to be filed under ORS 192.660(2) (h). The Executive Session ended at 7:05 p.m.

STUDY SESSION

- A. DISCUSS AMENDMENTS TO PRINCIPLES OF COOPERATION BETWEEN ODOT AND TIGARD

City Manager Prosser said ODOT General Manager Jason Tell responded to the City's suggested principles of cooperation with a few changes. Senior Planner Gray said the changes were minor. She said if council approves, staff will prepare a resolution adopting the principles for a future consent agenda. Mayor Dirksen and council said staff could proceed.

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- B. DISCUSS 2011-12 MASTER FEES & CHARGES SCHEDULE

Finance and Information Services Director LaFrance said council will be considering the budget on June 14, 2011, but there is not a process for annual review of the Master Fees and Charges Schedule, which is also scheduled for consideration. He said the purpose of this Study Session item is to present the list of fees and charges and any proposed changes. He said some changes are based upon prior council decisions or the decision of another jurisdiction. He asked council to let him know if there are any questions prior to the budget hearing.

Councilor Henderson asked if any fees were reduced. Finance and Information Services Director LaFrance replied that the Parks SDC was reduced due to lower land prices. Councilor Woodard asked about the fee-in-lieu of shared open space. Community Development Director Bunch said that since site size in the downtown determines how much property can be used for development, the city found that requiring open space constrains the market character of the building. The developer is provided the option of a fee-in-lieu of open space on the site. The money would only be utilized in the downtown area for open space or public plaza space.

Council President Buehner asked about roof gardens and balconies. Community Development Director Bunch said balconies providing outdoor usable open space are individual and private. The fee in lieu is for accessible (shared) open space. Referring to roof gardens, he said the structures are expensive but still an option.

- Administrative Items:

City Manager Prosser said Councilor Wilson requested Consent Agenda Item 3.C - Tree Replacement Fund - be removed for separate discussion. Assistant Community Development Director Hartnett reminded council that staff is trying to do a two-stage process, documenting a fund that has had no documentation and also changing the name of the fund. She said this is timely to do before the budget is adopted. She referred to the time this process is taking away from staff's focus on the urban forestry code revisions.

Councilor Wilson said he objects to only one sentence in the document and his preference is to remove some council oversight. He questioned whether the policy is to plant as many trees as cheaply as possible, or target those areas that are more difficult. Mayor Dirksen suggested discussing it separately from the language in this document. Assistant Community Development Director Hartnett said council will revisit the language in one year when the full package returns for review. She said Councilor Wilson's question may be more appropriate as part of an overall discussion.

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1. BUSINESS MEETING

1.1 At 7:33 p.m. Mayor Dirksen called the meeting of the Tigard City Council & Local Contract Review Board to order.

1.2 Deputy Recorder Krager called the roll.

	Present	Absent
Mayor Dirksen	x	
Councilor Henderson	x	
Councilor Woodard	x	
Councilor Wilson	x	
Council President Buehner	x	

1.3 Pledge of Allegiance

1.4 Council Communications & Liaison Reports - none

1.5 Call to Council and Staff for Non-Agenda Items – City Manager Prosser said there are additional Executive Sessions called at the end of this meeting.

2. CITIZEN COMMUNICATION

- Follow-up to Previous Citizen Communication - none
- Citizen Communications Sign Up Sheet -none

3. CONSENT AGENDA

3.A Approve Council Minutes
April 12, 2011

3.B Receive and File:

- 2010 Annual Solid Waste Financial Report

3.C Consider a Resolution to Rename and Outline Allowed Uses of the Tree Code **(This item was removed from the Consent Agenda by a request from Councilor Wilson and will be considered separately immediately after the Council/LCRB has voted on those items which do not need discussion.)**

3.D Approve Grant Application to the Office of Community Oriented Policing Services (COPS)

3.E Award Pavement Management Program Slurry Seal Applications Contract **(This item was removed from the Consent Agenda by a request from Councilors Henderson and Woodard and will be considered separately immediately after the Council/LCRB has voted on those items which do not need discussion.)**

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3.F Award Contract for Auditing Services

Council President Buehner moved for approval of the consent agenda, as amended. The motion was seconded by Councilor Wilson and all voted in favor.

	Yes	No
Mayor Dirksen	x	
Councilor Henderson	x	
Councilor Woodard	x	
Councilor Wilson	x	
Council President Buehner	x	

Items removed from Consent Agenda for separate discussion:

3.C Consider a Resolution to Rename and Outline Allowed Uses of the Tree Code

Councilor Wilson said he was concerned with one sentence in Exhibit A. He said the sentence reads, “The average cost to plant and provide three years of early establishment for each tree planted in a particular year shall be no more than 10 percent greater than the tree replacement fee in the City of Tigard’s Master Fees and Charges Schedule for that particular year, unless otherwise approved by the City Council.” He said the fee in the schedule is \$125 per caliper inch and if 10 percent is added it would be roughly \$137.50 per caliper inch. He said it is a small issue but he raised it because of the policy implications. He said it appears the city is interested in planting as many trees as cheaply as possible. That can be done by planting them in parks and green spaces, but it would not cost the same for places such as parking lots. He did a cost analysis based on recommended, best practices, parking lot tree detail, and came up with a substantially higher figure (25 times that amount) for planting in difficult and under-canopied areas. He said he objected to the sentence, not to relieve council of oversight, but because he feels the city should be interested mostly in planting trees in areas that are currently under-canopied and/or are difficult sites.

Mayor Dirksen said he appreciated the explanation but wanted the current language to remain. He said staff should be able to identify without council oversight, places where additional canopy is needed and the cost would not be excessive. In the more difficult and costly areas, where it is likely that there will be some mitigation required of property owners, council should have direct oversight. He said he wanted to be personally involved when the city does the more difficult planting projects, because it is something he wants to see happen and be done correctly.

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Councilor Wilson said the language was all right; he just wanted to call attention to policy implications. Mayor Dirksen said the city needs some policy language to make it clear to staff, boards and committees that improving the tree canopy is a high priority for council. Council President Buehner said she agreed with the mayor's position and there was enough legislative history to solve this issue.

Councilor Wilson moved for approval of the Resolution No. 11-16. The motion was seconded by Council President Buehner and passed unanimously.

	Yes	No
Mayor Dirksen	x	
Councilor Henderson	x	
Councilor Woodard	x	
Councilor Wilson	x	
Council President Buehner	x	

E. Award Pavement Management Program Slurry Seal Applications Contract

Mayor Dirksen said this item was removed from the Consent Agenda at the request of Councilors Henderson and Woodard. He noted finance and engineering staff were present to respond to any questions.

Councilor Henderson said he is concerned with the pavement management program and follows it closely. He said his first question has to do with the fact that last year the budgets were high. He distributed a spreadsheet he prepared showing that the low bid came in at 14 percent under the engineer's estimate. He said the opposite was true last year, and some of those streets had to be cut, leaving \$46,999. He asked if this money was still available to fill in some areas not done last year.

In response, Senior Management Analyst Barrett said the conditions last year were different because the price of asphalt had increased significantly and the work was bid later in the year. He said the city is ahead of schedule this year and contractors are not as busy, which explains this year's lower price. Mayor Dirksen remarked that last year the State of Oregon had the most projects and highest amount of money ever spent on highway projects, so contractors were extremely busy.

Engineer Kyle said in their cost estimate a higher escalation was assumed due to sharply rising oil costs. He said when the two lowest bids are within less than 1 percent of each other it shows that the city's plans and specifications were clear and understandable to contractors. He said he was astounded that five bids were received because usually there are only two bidders for this specialized slurry seal work. He said, "Competition is better for us; we get a better price."

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Councilor Henderson said, “We are the LCRB, and when I looked at this I was alarmed and thought that I needed to get more information rather than just having it come through the consent agenda.” He said this would help him determine whether or not there is a problem.

Councilor Henderson said his second concern is that the city is spending money that it has not been approved to spend. Senior Management Analyst Barrett said council will consider the 2011-12 budget on June 14, 2011, and if they choose not to fund the pavement management program at the approved level, the contract will be cancelled or reduced, based on what council adopts. He said, “All of our contracts have a clause based on fiscal year budget approval.”

Councilor Henderson referred to his question of the \$46,000 remaining from last year and asked if it would be rebid or added to the current bid. Senior Management Analyst Barrett said the budget has the entire pavement management program as a line item, so it basically gives the city money to fund more streets. He said staff is currently looking for asphalt overlay bids and council will see that contract later in the month. He said the pavement overlay is being bid with add/alternates to include that cost savings. Mayor Dirksen confirmed that since the slurry sealing cost less, the city has more money available for pavement overlays.

In response to a question from Councilor Henderson, Senior Management Analyst Barrett said the \$750,000 for asphalt overlays includes what is left over in the entire pavement management program and includes the savings from the engineer’s slurry seal estimate.

Councilor Henderson said he still had concerns about approving a contract without having next year’s budget passed. Senior Management Analyst Barrett said what the LCRB has always been asked to do is award the contract and authorize the city manager to execute it. He said, “You are basically telling staff that you approve the dollar amount, the contractor and the process. We then go through the full execution of that contract, and the city manager will sign it with authority the LCRB has granted. If the budget does not go through, we do not take it to the execution level. The contract doesn’t happen.”

Councilor Henderson suggested these contracts be reviewed in regular workshop sessions because he has a lot of questions. Senior Management Analyst Barrett said if council wants to set that as a process, staff will work to meet that policy.

Councilor Buehner noted that there has already been a request to discuss the purchasing policy at a workshop meeting. She said if council decides to change this policy she will be requesting a second workshop meeting each month because she predicts this will add an hour to the workshop meetings, which she feels are already too long. She requested the finance department track additional time that staff is expending to staff these meetings. She said her concern is, “not to spend dollars to save pennies.”

Councilor Wilson said potential savings do not occur once the bids have been accepted, but are during the generation of the plans themselves. He said if council is going to look at the

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entire purchasing policy then it should begin sooner than when the bids are awarded. He said he was not sure council should be injecting itself into that kind of detail.

Mayor Dirksen said it is becoming clear to him that it is necessary for council to have a workshop discussion. He said there needs to be a primer on the purchasing process: how a project gets identified, approved, and budgeted, because all of those things have happened in a public process before we get to the approval point. He said Council needs to go through this step by step so everyone understands it well.

City Manager Prosser added that staff is working on an update of the purchasing policies and it will come to council in the June workshop. He suggested a discussion on the purchasing process be combined with that, schedule permitting.

Council President Buehner asked for confirmation on the amounts that the City Manager has authority to approve without going to council. Management Analyst Barrett said those amounts are \$50,000 for goods and services and \$75,000 for public improvements. City Manager Prosser said this is written into the city's policy which will be brought to council in June for a discussion on potential adjustments.

Councilor Woodard said he requested this item be pulled off consent for a different reason. He asked staff if they do any benchmarking for best cost in services compared to other cities. City Engineer Kyle said staff does not do this for construction projects because the conditions in every construction project are different. But he said slurry sealing is something that could be handled in a few different ways, such as combining our contract with Washington County's and sharing a larger quantity for a better unit price. Management Analyst Barrett said the city has a process to maximize and take advantage of bulk pricing. He gave an example of combining water lab testing with Beaverton so both cities get a better price.

Council President Buehner expressed concern that the city could get caught up in another jurisdiction's rules, making it more expensive. Management Analyst Barrett said contracting rules and thresholds differ throughout the state and could place the city in a more formal process that can actually be more costly.

Mayor Dirksen said, "I hear Councilor Woodard suggesting something else as well. We don't need to necessarily tie ourselves with someone else's contract but we could compare our contract per unit prices with other cities to see if they seem reasonable. Are we all getting the same deal? Even though construction conditions vary with the projects, there is still a base level of unit costs that could be compared with one another."

Councilor Woodard said he looked at resources and expenditures for this year and is concerned about using up reserves. He mentioned the police audio/video equipment purchase that he recently questioned. He said it was not that he did not want the police to have what they need to do their job. But because it was pulled off the Consent Agenda he learned how the money did not come out of the General Fund; instead staff found a way to pull it from their budget which was a direct cost savings. He said, "For me, if I'm going to

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be looking at anything over \$150,000, I want an opportunity to get more information and discuss it. Maybe it's \$200,000 or \$250,000, I don't know." He suggested a motion be made to talk about changing LCRB policy. He said his second concern is that if he doesn't see it in the budget, it catches his eye. He said, "If I believe a cost-saving opportunity may present itself through benchmarking activities, I'd like to discuss it." He said everyone on Council has experience to offer and that should be used when looking for cost-saving opportunities.

Councilor Henderson said, "We are spending the people's money. It warrants a conversation."

Councilor Woodard motioned to have a discussion to establish a policy regarding contract services reviewed by council prior to placement on the Consent Agenda and conditions that would warrant review by the Local Contract Review Board. Councilor Henderson said he would like it clarified that it is the LCRB that needs the discussion, not council.

Finance and Information Services Director LaFrance suggested that this policy discussion be scheduled for the June workshop meeting. He said that agenda item was primarily to cover basics of the contracting process, types of contracts and thresholds. Proposed changes would be discussed as well. Mayor Dirksen asked if this specific issue could be raised at the same time. Management Analyst Barrett expressed concern about mixing too much procedure into the public contracting policies. Mayor Dirksen said what is being considered through Councilor Woodard's suggestion is more of a council policy and it would not become statute. Councilor Woodard said he hoped that the procedures staff presents will include a description of how the best-class services are incorporated and how comparisons are made. Mayor Dirksen asked if there was time for this discussion at the June workshop.

Council President Buehner proposed a friendly amendment to Councilor Woodard's motion that if this policy change requires a second monthly workshop meeting, staff should inform council of the cost of holding a second workshop meeting each month.

Councilor Woodard said he wanted to add that if staff is looking for cost savings, what is the offset of time vs. actual cost savings.

Councilor Wilson mentioned to Councilor Woodard that ODOT posts bid prices for all projects on their website. He said they list the cost of putting up a bollard or painting a stripe and the information is updated quarterly. He suggested this as a good resource.

City Manager Prosser told Council there was a motion to have this discussion on June 21, a proposed friendly amendment but no second. Councilor Woodard said he accepted Council President Buehner's friendly amendment and Councilor Henderson seconded the motion.

Councilor Wilson said he thought it premature to say what will be done until you have had the educational discussion and learned about the process. He suggested tabling the discussion until council hears what staff is proposing. He said for this reason he is voting no, not because it is not important, but because discussion should occur prior to engaging a new oversight process. Mayor Dirksen said that was not part of the motion; council is just

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voting to hold the discussion at the June 21 workshop and look at additional costs if there is a process change. He asked if there was additional discussion. There was none and he called for a vote on holding this discussion during the June 21 workshop, including the additional costs. Motion passed so this item will be placed on the agenda for June 21, 2011.

	Yes	No
Mayor Dirksen	x	
Councilor Henderson	x	
Councilor Woodard	x	
Councilor Wilson	x	
Council President Buehner	x	

Mayor Dirksen asked if there was a motion to approve the slurry seal contract. Councilor Wilson moved for approval and the motion was seconded by Council President Buehner. All voted in favor.

	Yes	No
Mayor Dirksen	x	
Councilor Henderson	x	
Councilor Woodard	x	
Councilor Wilson	x	
Council President Buehner	x	

4. QUASI-JUDICIAL PUBLIC HEARING – COMPREHENSIVE PLAN AMENDMENT, SENSITIVE LANDS REVIEWS AND ADJUSTMENT TO EXTEND WALL STREET TO FIELDS' PROPERTY

COMPREHENSIVE PLAN AMENDMENT (CPA) 2009-00004/SENSITIVE LANDS REVIEW (SLR) 2009-00004/SENSITIVE LANDS REVIEW (SLR) 2009-00005/ADJUSTMENT (VAR) 2010-00002- WALL STREET EXTENSION (FIELDS) –

Mayor Dirksen said on February 22, 2011, the applicant requested a continuance of the public hearing to this date. He said since then the applicant has requested another continuance. City Attorney Ramis said the public hearing had been opened at the previous meeting and so there just needs to be a motion to continue. Council President Buehner moved to continue this item to July 12, 2011. Councilor Wilson seconded the motion and all voted in favor.

	Yes	No
Mayor Dirksen	x	
Councilor Henderson	x	
Councilor Woodard	x	
Councilor Wilson	x	
Council President Buehner	x	

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5. LEGISLATIVE PUBLIC HEARING (CONTINUED FROM MAY 10, 2011) FOR CITY OF TIGARD 2011 ECONOMIC OPPORTUNITIES ANALYSIS

Senior Planner Wyss said council held a public hearing two weeks ago on the Tigard 2011 Economic Opportunities Analysis (EOA). At this meeting council directed staff to return with slight adjustments to three glossary items included in the Planning Commission's recommendation. This direction was based on letters submitted by the Oregon Department of Transportation and Metro. The adjustments removed the reference to Metro Title 6 map for the glossary terms Metro-designated corridor, Metro-designated Regional Center, and Metro-designated Town Center. He said this minor amendment has no impact on the Tigard 2011 EOA.

Mayor Dirksen said one adjustment was a result of a different Metro process to change a town center designation. He said the city will make that a separate council action from approval of this ordinance.

Council President Buehner asked how soon the hearing could be held. Assistant Community Development Director Hartnett said staff is looking at their work plan and will most likely combine this action with another project. She said there were a number of Tigard Triangle work elements and one could be used to bring this forward.

Council President Buehner moved to adopt Ordinance No. 11-02, CPA 2011-00002 as recommended by the Planning Commission with slight amendments to three glossary terms, outlined in Supplemental Staff Report found in Exhibit C. Councilor Woodard seconded the motion. Motion passed unanimously.

Ordinance No. 11-02 – An Ordinance Adopting Comprehensive Plan Amendment CPA 2011-00002 to Adopt the Tigard 2011 Economic Opportunities Analysis and Amend Current Tigard Comprehensive Plan Goal 9: Economic Development and Amend Tigard Comprehensive Plan Glossary

	Yes	No
Mayor Dirksen	x	
Councilor Henderson	x	
Councilor Woodard	x	
Councilor Wilson	x	
Council President Buehner	x	

6. CITY MANAGER RECRUITMENT – DISCUSSION OF CANDIDATE PROFILE

Consultant Eric Middleton updated council on the process and his progress with meeting department heads and councilors. He understood that council was still meeting with stakeholders. He asked if there any input coming out of the stakeholder meetings that should be added.

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Consultant Middleton said he met with all city department directors and with each councilor regarding opportunities, challenges and personal traits. He said he summarized the input and wanted to give a draft to council with comments by June 3.

Recommendations mentioned by Council and those in the community interviewed so far include:

- Strong financial and budget skills
- Fiscal Integrity
- Economic development experience, both with existing and new businesses
- Understanding of fiscal implications of economic development
- Ability to deal with people collectively in unions or organizational units
- Approachability
- Ability to carry on what has started in the corporate culture
- Ability to get others on board with the core values
- Ability to walk and talk with business owners
- Partnership style of leadership
- Ability to communicate with people from all walks of life
- Must understand the needs of businesses
- Must understand development opportunities and setting groundwork for how the city will grow

Council President Buehner said she met with Consultant Middleton prior to completing her interviews and although many of the same qualities and abilities were mentioned, two were different - targeted outreach to women or minority candidates; and the necessity of the city manager to be a good communicator with the general public, business community and development community. She said they need to be able to speak something besides technical or government language.

Councilor Woodard thanked Consultant Middleton for meeting with him. He said one additional question he asked was what kind of leadership was desired and what makes a great leader. He said the partnership style of leadership was preferred. He said he was pleasantly surprised to hear that what people thought was missing in the community were recreation programs.

Councilor Henderson said when he asked the question, “Are you looking for a manager or are you looking for a leader?” it gave people a lot to think about. He said he had not turned in his notes to Consultant Middleton yet and will tally his information first.

Mayor Dirksen noted that three Council members have gone through this hiring process before and discussed differences between then and now. He said that prior to when City Manager Prosser was hired, he heard a need for more outreach into the community. He said, “Maybe we’ve worked on this issue and it is no longer seen as a problem.” He said something that comes up now is that there must be more of an emphasis on economic development experience.

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City Attorney Ramis mentioned an aspect of Oregon procedural law that will affect the process. He said that typically at some point when a city is hiring a chief executive, the council will want to hold an executive session. He said that is specifically allowed under the public meeting law if, prior to conducting that session, the city adopted the hiring process, procedures and criteria in an open public meeting where the public has a chance to comment. He said since the document council is receiving tonight was not available prior to the meeting, this meeting would not qualify. He suggested council build into the hiring process a step where people have an opportunity to comment. Mayor Dirksen said the document handed out at the meeting would probably be updated and amended based on what the consultant heard so, once it is amended, it will be available to the public and there will be an opportunity for public comment scheduled.

Council President Buehner asked if this had to be a public hearing. Attorney Ramis said the phrase is, a meeting open to the public, and he didn't think it necessarily had to be a public hearing.

Assistant City Manager Newton suggested looking at the draft and getting comments back to Consultant Middleton by Friday, June 3. When the council has agreed upon a document to move forward, the public will have an opportunity to weigh in on it at a public meeting.

Mayor Dirksen said staff will check the schedule and consider holding the public hearing on June 14, 2011. In response to a question from Mayor Dirksen about the timeline, Consultant Middleton said there is no rush; it is more important that the document be complete and reflective of the desired criteria. He described the schedule and said he needed a five-week recruiting period.

7. COUNCIL LIAISON REPORTS

8. NON AGENDA ITEMS

9. EXECUTIVE SESSION

At 8:53 p.m. Councilor Wilson motioned to retire into an Executive Session in the Red Rock Creek Conference Room. Council President Buehner seconded the motion.

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10. BUSINESS MEETING

At 10:07 p.m. the Executive Session ended and council entered into regular session. Councilor Wilson moved that the city proceed with condemnation of the Ball property and authorize the City Manager to issue a check for \$52,500. Council President Buehner seconded the motion. The motion passed unanimously.

	Yes	No
Mayor Dirksen	x	
Councilor Henderson	x	
Councilor Woodard	x	
Councilor Wilson	x	
Council President Buehner	x	

11. ADJOURNMENT

At 10:10 p.m. Council President Buehner motioned for adjournment. Councilor Wilson seconded the motion and all voted in favor.

	Yes	No
Mayor Dirksen	x	
Councilor Henderson	x	
Councilor Woodard	x	
Councilor Wilson	x	
Council President Buehner	x	

/s/Carol A. Krager
Carol A. Krager, Deputy City Recorder

Attest:

/s/ Craig E. Dirksen
Mayor, City of Tigard

July 26, 2011
Date

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